

NEWS RELEASE

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Info Commissioner's weak BC Ferries decision "disappointing" says FIPA FOI watchdog says wrist slap opens the door to abuse

Vancouver – The Information and Privacy Commissioner has found BC Ferries' FOI policy operates in a way that "frustrates the purposes of the *Freedom of Information and Protection of Privacy Act*", but has declined to do anything concrete about it.

After being put back under the *Act* following criticism from FIPA and the Comptroller General, BC Ferries decided to post records released to FOI requesters on the web at the same time (or sometimes before) providing them to the requester. The BC Freedom of Information and Privacy Association complained to the Commissioner, saying BC Ferries was violating British Columbians' access rights and failing in their legal duty to assist requesters.

Commissioner Denham declined to find the company had either violated the rights of requesters or breached the duty to assist. Instead, she issued a set of guidelines for public bodies that might adopt similar schemes, including recommending a 24 hour delay before posting requested information to the Web.

"We are disappointed that the Commissioner has only given a slap on the wrist and a flabby recommendation to BC Ferries for running a scheme she says frustrates the very purpose of the law," said FIPA Executive Director Vincent Gogolek. "BC Ferries has a duty to assist requesters and we don't see how a system designed to frustrate requesters can comply with the law."

The Commissioner's guidelines for posting records on the internet either proactively or in response to a FOI request include a recommendation of a 24 delay before requested information is posted, but she says requesters can ask for a longer period which a public body "should consider".

"And what if a public body consistently rejects requests for a longer delay in posting the records?" Gogolek asked. "If you are a freelance journalist or weekly newspaper, you are out of luck. There are no teeth in these recommendations."

The Commissioner ends her report by expressing the belief that if there is more proactive disclosure by government, then there will be fewer FOI requests and "controversies arising from the specifics of disclosure log practices will fall away."

"The Commissioner may be right about complaints falling away, but not for the reason she states," Gogolek said. "Today's report fails to make a strong statement that these practices violate the rights of requesters, and as a result, people with complaints are likely to give up."